

REMARKS/ARGUMENTS

Claims 1-64 were pending. By this amendment, independent claims 31, 42, and 45 are amended for consistency in terminology with regard to the other independent claims. Claim 47 is amended as a result of the amendment to claim 45. Support for the amendments may be found in the specification and claims as originally filed. Thus, no new matter is added and claims 1-64 remain pending and at issue. Moreover, the amendments are not made for patentability purposes.

35 U.S.C. § 102 and § 103 Rejections

The applicants respectfully traverse the rejection of claims 1-64 as anticipated by any of, or as obvious over any combination of, U.S. Patent No. 5,063,679 to Schwandt (“Schwandt”); U.S. Patent No. 5,575,073 to Von Wedemayer (“Von Wedemayer”); U.S. Patent No. 6,481,686 to Jan (“Jan”); and U.S. Patent No. 6,810,598 to Boys (“Boys”); U.S. Patent No. 5,531,031 to Green (“Green”); U.S. Patent No. 5,516,581 to Kreckel (“Kreckel”); U.S. Patent No. 6,502,319 to Goodrich et al. (“Goodrich”); U.S. Patent No. 1,657,546 to Patton (“Patton”); and U.S. Patent No. 4,663,856 to Hall et al. (“Hall”), collectively the “cited art.” Each of claims 1-64 recites *inter alia*, a surface comprising a connection structure to removably receive and mount either a light generating device or a leveling device thereto, wherein a portion of the connection structure is pivotably movable **relative to the surface**. The cited art fails to disclose or suggest this limitation.

While Schwandt discloses a bubble level having a mounting portion 32 and a securing portion 30 (col. 4, lines 58-62), the alleged connection structure 50, 52 (Office Action, page 2) is either not pivotable relative to the surface (e.g., recess 52), or does not comprise any part of the connection structure that composes the surface (e.g., snap connector 50). In particular, the Office Action identifies the upper surface 32a of the mounting portion as the surface comprising the connection structure (Office Action, page 2). The upper surface 32a includes a flat surface and a recess 52 (col. 4, lines 64-65). However, the recess 52 is not pivotable in any way, let alone pivotable **relative to the surface**, as required by each of the pending claims.

Additionally, the Office Action identifies a snap connector 50 as part of the connection structure that composes the surface (Office Action, page 2). However, the snap

connector 50 is not part of the alleged surface (32a), but rather, is “mounted within securing portion 30 in a manner wherein snap connector 50 extends downwardly from the lower surface 30b” (col. 4, lines 60-64, emphasis added). Thus, the snap connector 50 cannot compose any part of the upper surface 32a because it extends from the lower surface 30b. While the snap connector 50 may engage the recess 52, the snap connector 50 does not compose, and is not part of the upper surface 32a, and thus the upper surface 32a cannot comprise any part of the snap connector 50 as is required by each of the pending claims.

While Von Wedemayer discloses a leveling device for a spirit level, Von Wedemayer fails to disclose a surface that comprises a connection structure wherein a portion of the connection structure is pivotably movable relative to the surface. The leveling device of Von Wedemayer includes an upper plate 1 made of ferromagnetic material wherein the top surface 8 of the upper plate is ground absolutely planar (flat) (col. 3, lines 15-17). The Office Action identifies reference numbers 9, 11, 12, and 26 as the alleged connection structure that composes the surface (upper plate 1, Office Action, page 4). While the pin 9, the depression 11, and the magnet 12 are all mounted in, or project through, the upper surface 1, none of these elements is pivotable **relative to** the upper surface 1. Each of the pin 9, the depression 11, and the magnet 12 is **fixed** relative to the upper surface 1 (col. 3, lines 17-20 and col. 3, lines 51-55 respectively).

The pin 26 of the Van Wedemayer device, on the other hand, is not part of the upper surface 1 at all, but rather, the pin 26 is mounted in the spirit level 20 (col. 3, lines 56-57). Therefore, similar to the snap connector of Schwandt, the pin 26 cannot compose any part of the upper surface 1. Thus, Von Wedemayer fails to disclose or suggest a surface that comprises a connection structure and a portion of the connection structure that is pivotably movable **relative to** the surface as is required by each of the pending claims.

Likewise, while Jan discloses a turntable for a leveling device that includes a pedestal 10, a limb 20, a level adjustment means 30, and a turn member 40 (col. 2, lines 10-16), Jan does not disclose or suggest a connection structure that is pivotably movable relative to a surface which comprises the connection structure. The Office Action alleges that the limb 20 is a surface and the turn member 40 is a connection structure that composes the surface (Office Action, page 5). However, the applicants note that the Office Action fails to identify any particular surface on the limb 20 as the claimed surface and that the limb 20 includes

several different and distinct surfaces (See Fig. 2), none of which includes a portion of a connection structure that is pivotable relative to a surface. Even if the turn member 40 could be considered a connection structure, the turn member 40 in no way composes any part of the limb 20 (See Fig. 2), as these are separate components and they are further separated by a bearing 47 and an angle scale disk 27. Accordingly, it is not possible that the turn member 40 could compose any part of the limb 20. Thus Jan fails to disclose or suggest a surface that comprises a connection structure wherein a portion of the connection structure is pivotably movable relative to the surface, as required by each of the pending claims.

While Boys discloses a template system including a stud finder and a system of interconnected extensions which form the template, Boys fails to disclose or suggest a surface that comprises a connection structure wherein a portion of the connection structure is pivotably movable relative to the surface. The Office Action alleges that the surface is the **top** of guide rail 605a and the connection structure is the rotating element 560, small slots 563, and the pair of hooks 606 on the **bottom** of the guide rail 605a (Fig. 7A, See Office Action, page 8). However, the applicants note that none of the alleged connection structure (606, 560, 563) is disposed on, and thus does not compose, any part of the alleged surface (top of guide rail 605a). The top of guide rail 605a is a flat surface (See Fig. 7B). Even if the flat top surface of 605a were considered to comprise a connection structure, a flat surface does not, and cannot, pivot relative to itself. Thus, Boys fails to disclose or suggest a surface that comprises a connection structure and a portion of the connection structure that is pivotably movable relative to the surface as is required by each of the pending claims.

Furthermore, while Green discloses a laser assembly and a square, wherein the laser assembly is rotatably mounted in the square, Green fails to disclose or suggest a connection structure of any sort for removably mounting the laser assembly, let alone a connection structure that is pivotably movable relative to a surface. The Office Action alleges that the curvature of the level body 12 (which houses 44) is a connection structure (Office Action, page 13). Even if the curvature of the level body 12 were considered a connection structure, and if the inner surface of the curved portion of the level body 12 were considered a surface comprising a connection structure, no part of the curved inner surface is pivotably movable, let alone pivotably movable relative to the curved inner surface. Thus Green fails to disclose or suggest a surface that comprises a connection structure and a portion of the connection

structure that is pivotably movable relative to the surface as is required by each of the pending claims.

Kreckel has not been cited as having a connection structure having a pivotably movable portion and Kreckel does not disclose such a feature. Kreckel discloses a removable adhesive tape and does not disclose any movable parts on the tape. Therefore, Kreckel cannot disclose or suggest a surface that comprises a connection structure and a portion of the connection structure that is pivotably movable relative to the surface as is required by each of the pending claims.

Goodrich was not cited as disclosing a connection structure of any sort and Goodrich does not disclose such a feature. Goodrich discloses a laser diode 2 and lens 6, 8, 10 for producing a line of light on a surface. Even if the bracket 56 of the Goodrich device were considered a base, there is no surface on the bracket 56 that includes a movable structure of any sort. Therefore, Goodrich cannot disclose or suggest a surface that comprises a connection structure and a portion of the connection structure that is pivotably movable relative to the surface as is required by each of the pending claims.

Patton was not cited as disclosing a connection structure that is pivotably movable and Patton does not disclose such a feature. Patton discloses an adjustable level and plumb device that includes a plate 16 and an oblong frame 20 that holds a glass bulb 27 (page 1, lines 65-105). The plate 16 and frame 20 interact so as to allow the frame 20 to rotate relative to the plate 16. However, neither the plate 16 nor the frame 20 includes a connection structure that is movable in any way, let alone pivotable relative to the surface which the connection structure composes. Therefore, Patton cannot disclose or suggest a surface that comprises a connection structure and a portion of the connection structure that is pivotably movable relative to the surface as is required by each of the pending claims.

Hall was not cited as disclosing a connection structure that is pivotably movable and Hall does not disclose such a feature. While Hall discloses a leveling/plumbing device, the leveling/plumbing device does not include a connection structure to removably receive and mount either a light generating device or a leveling device. The spirit levels 78, 82 are glued in place on the body 62 (col. 4, lines 39-43 and FIGS. 8-10). Further, even if the body 16 were considered to be a connection structure where it meets the levels 78, 82, there is no movable portion on the body 16 at those locations, let alone a pivotably movable portion.

Therefore, Hall cannot disclose or suggest a surface that comprises a connection structure and a portion of the connection structure that is pivotably movable relative to the surface as is required by each of the pending claims.

As shown above, none of the cited art, alone or in combination, discloses or suggests a surface comprising a connection structure to removably receive and mount either a light generating device or a leveling device thereto, wherein a portion of the connection structure is **pivotably movable relative to the surface**, as is recited in each of the pending claims. Thus, none of the pending claims can be anticipated by any of the cited art or rendered obvious by any combination thereof. Accordingly, the applicants respectfully request withdrawal of the rejection of the pending claims.

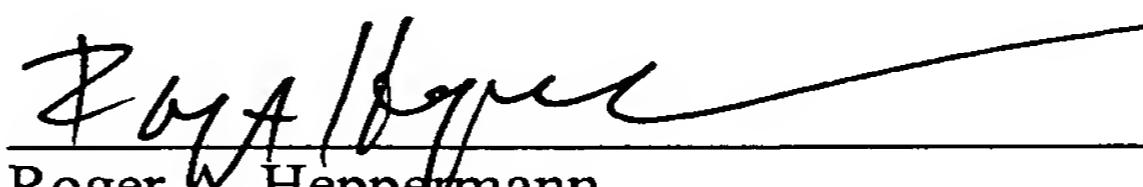
Conclusion

In light of the foregoing arguments, the applicants respectfully request reconsideration and allowance of claims 1-64.

If there are matters that can be discussed by telephone to further the prosecution of this application, the applicants respectfully request that the Examiner call its attorney at the number listed below. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith.

Respectfully submitted,

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